

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EDDYSTONE RAIL COMPANY, LLC,

Plaintiff,

v.

BRIDGER LOGISTICS, LLC, et al.

Defendants.

Case No. 2:17-cv-00495-JDW

ORDER

AND NOW, this 1st day of June, 2023, I note as follows.

1. In ruling on Defendants' summary judgment motion, I held, "When a corporation is insolvent, corporate directors and officers owe a fiduciary duty to the creditors of the corporation. This fiduciary relationship applies to insolvent limited liability companies like BTS." (ECF No. 556 at ¶ 27 (citations omitted).)

2. In reviewing the Parties' post-trial submissions and preparing for closing argument, I have come across the decisions in *Hanaway v. Parkesburg Grp., LP*, 168 A.3d 146 (Pa. 2017) and *Retina Assocs. of Greater Philadelphia, Ltd. v. Retinovitreal Assocs., Ltd.*, 176 A.3d 263 (Pa. Super. Ct. 2017), both of which appear to bear on my ruling concerning the fiduciary duty that members and managers of an insolvent LLC might owe to creditors.

3. No one cited *Hanaway* or *Retina Assocs.* in summary judgment briefing.

4. A district court judge has the power to revisit a prior ruling as long as he explains his decision to reconsider and takes appropriate steps to prevent prejudice from the reconsideration. *See Williams v. Runyon*, 130 F.3d 568, 573 (3d Cir. 1997).

Therefore, it is **ORDERED** that on or before June 16, 2023, the Parties may submit supplemental memoranda of law, not to exceed 10 pages, addressing whether and to what extent, the decisions in *Hanaway v. Parkesburg Grp., LP*, 168 A.3d 146 (Pa. 2017) and *Retina Assocs. of Greater Philadelphia, Ltd. v. Retinovitreal Assocs., Ltd.*, 176 A.3d 263 (Pa. Super. Ct. 2017) bear on Plaintiff's breach of fiduciary duty claim, including whether managers and/or members of limited liability companies owe fiduciary duties to creditors under Pennsylvania law, and whether those decisions should cause me to reconsider my conclusion that members or managers of an insolvent LLC owe a fiduciary duty to the company's creditors.

BY THE COURT:

/s/ Joshua D. Wolson

JOSHUA D. WOLSON, J.